

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Milton Ciplet, Individually and on behalf of all  
others similarly situated,

Plaintiff,

- against -

JP Morgan Chase & Co. and J.P. Morgan  
Securities, Inc.,

Defendants.

Case No. 08-cv-4580 (RMB)

Mark Scharff, Pine Sash Door & Lumber Co., Inc., Mark Scharff & Associates LLC, 2170 Mill Avenue LLC, 6202-6217 Realty LLC, Mark Scharff ITF Michael Scharff, Mark Scharff ITF Daniel Scharff and Mark Scharff ITF Ariel Scharff,

Plaintiffs

- against -

JPMorgan Chase Bank & Co., J.P. Morgan  
Securities, Inc., and Chase Investment Services  
Corp.,

Defendants.

Case No. 08-cv-5026 (RMB)

**REPLY DECLARATION OF JONATHAN K. LEVINE IN FURTHER SUPPORT  
OF THE MOTION OF THE ASSIF GROUP FOR CONSOLIDATION OF  
ACTIONS, APPOINTMENT AS LEAD PLAINTIFF, AND APPROVAL OF  
SELECTION OF COUNSEL**

I, Jonathan K. Levine, under penalty of perjury, hereby declare:

1. I am a partner of Girard Gibbs LLP and am admitted to practice in the Southern District of New York. I submit this reply declaration in further support of the Motion of the Assif Group for Consolidation of Actions, Appointment as Lead Plaintiff, and Approval of Selection of Counsel.

2. Attached hereto as Exhibit A is a true and correct copy of the docket sheet from the case styled *Silverman v. JPMorgan Chase & Co., et al.*, Case No. 08-cv-3177 (S.D.N.Y.), a class action for violation of the federal securities laws arising out of JPMorgan's sale of auction rate securities, in which my firm served as plaintiff's counsel.

3. The auction rate securities holdings of Charles Silverman, the named plaintiff in the *Silverman* case, were redeemed in full by the issuer shortly after the case was filed on March 31, 2008.

4. Because his auction rate securities were redeemed in full, Mr. Silverman chose not to pursue any additional claims and asked that the action be dismissed.

5. On April 3, 2008, my firm filed a notice of voluntary dismissal without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure on behalf of Mr. Silverman. The Court dismissed the action without prejudice on April 18, 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 5th day of September, 2008 at San Francisco, California.

/s/ Jonathan K. Levine

Jonathan K. Levine

**CERTIFICATE OF SERVICE**

I, Jonathan K. Levine, hereby certify that on September 5, 2008, I caused the following document(s) to be filed electronically with the United States District Court for the Southern District of New York through the Court's mandated ECF service:

1. **REPLY DECLARATION OF JONATHAN K. LEVINE IN FURTHER SUPPORT OF THE MOTION OF THE ASSIF GROUP FOR CONSOLIDATION OF ACTIONS, APPOINTMENT AS LEAD PLAINTIFF, AND APPROVAL OF SELECTION OF COUNSEL**

Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the document(s) upon confirmation of e-filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of September, 2008 at San Francisco, California.

/s/ Jonathan K. Levine

**EXHIBIT A**

CLOSED, ECF

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:08-cv-03177-GEL**

Silverman v. JP Morgan Chase & Co. et al  
Assigned to: Judge Gerard E. Lynch  
Cause: 15:78m(a) Securities Exchange Act

Date Filed: 03/31/2008  
Date Terminated: 04/18/2008  
Jury Demand: Plaintiff  
Nature of Suit: 850 Securities/Commodities  
Jurisdiction: Federal Question

**Plaintiff**

**Charles Silverman**

*individually and on behalf of all others  
similarly situated*

represented by **Aaron Michael Sheanin**

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V.

**Defendant**

**JP Morgan Chase & Co.**

**Defendant**

**J.P. Morgan Securities, Inc.**

Date Filed	#	Docket Text
03/31/2008	1	COMPLAINT against JP Morgan Chase & Co., J.P. Morgan Securities, Inc. (Filing Fee \$ 350.00, Receipt Number 646225)Document filed by Charles Silverman.(jeh) (Entered: 04/02/2008)
03/31/2008		SUMMONS ISSUED as to JP Morgan Chase & Co., J.P. Morgan Securities, Inc. (jeh) (Entered: 04/02/2008)
03/31/2008		Magistrate Judge Debra C. Freeman is so designated. (jeh) (Entered: 04/03/2008)
03/31/2008		Case Designated ECF. (jeh) (Entered: 04/03/2008)
04/03/2008	2	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - MOTION to

		Dismiss (NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANTS JPMORGAN CHASE & CO. AND J.P. MORGAN SECURITIES, INC.) Document filed by Charles Silverman.(Levine, Jonathan) Modified on 4/4/2008 (jar). (Entered: 04/03/2008)
04/04/2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Jonathan Levine to E-MAIL Document No. <u>2</u> Notice of Voluntary Dismissal to orders_and_judgments@nysd.uscourts.gov. This document is not filed via ECF. (jar) (Entered: 04/04/2008)
04/18/2008	<u>3</u>	NOTICE of Voluntary Dismissal without prejudice pursuant to Rule 41(a)(1) of the F.R.C.P., as to defendants JP Morgan Chase & Co and J.P. Morgan Securities, Inc. (Signed by Judge Gerard E. Lynch on 4/18/08) (cd) (Entered: 04/21/2008)

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09/04/2008 21:34:54			
<b>PACER Login:</b>	sh0419	<b>Client Code:</b>	Auction rate
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:08-cv-03177-GEL
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.16